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Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JEANNE HANSEN,

Plaintiff,

v.

**HIGH DESERT AGGREGATE & PAVING,
INC. and RELIABLE FLAGGING, INC.,**

Defendants.

Case **CV '09 - 1187 - AC**
COMPLAINT
(Title VII; ORS 659A.030)
DEMAND FOR JURY TRIAL

Nature of the Action

1.

Plaintiff brings this action for monetary relief, damages, costs, punitive damages and attorney fees for herself to redress injuries done to her by Defendants or officers, employees or agents of said Defendants in violation of her federally protected rights in violation of the Civil Rights Act of 1964; Title VII; 42 U.S.C. § 2000e-5 and her state protected rights in violation of Oregon Revised Statute 659A.030.

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Receipt 29475

Jurisdictional Allegations

2.

The court has jurisdiction over plaintiff's federal claims pursuant to 42 U.S.C. § 2000 *et seq.*, 28 U.S.C. §§ 1331, 1343, and supplemental jurisdiction over plaintiff's state claims pursuant to 42 U.S.C. § 1367 as the state claims arise from the same nucleus of operative facts as the federal claims.

3.

Plaintiff filed timely claims with Oregon's Bureau of Labor and Industries ("BOLI") and the Equal Employment Opportunity Commission (EEOC) raising the issues alleged herein.

4.

Plaintiff has received the Notices of Right to Sue from BOLI and the EEOC authorizing plaintiff to commence a civil action against the defendants. Plaintiff has timely filed this lawsuit within the prescribed timelines in said Notices.

General Factual Allegations

5.

Defendant High Desert Aggregate & Paving, Inc. was and is at all times herein mentioned an Oregon corporation and is and was at all times herein mentioned doing business in Oregon. Defendant Reliable Flagging, Inc. was and is at all times herein mentioned an Oregon corporation and is and was at all times herein mentioned doing business in Oregon.

6.

Plaintiff was hired by defendant Reliable Flagging, Inc. as a flagger on or about September 10, 2007. Plaintiff was placed by Reliable Flagging, Inc. at a jobsite operated by defendant High Desert Aggregate & Paving, Inc. While at this jobsite plaintiff was under the direction and control of defendant High Desert Aggregate & Paving, Inc. Plaintiff was "laid off" on or about June 20, 2008 from the High Desert Aggregate, Inc. jobsite and her position with Reliable Flagging, Inc. was terminated on or about November 21, 2008.

7.

At all material times herein, plaintiff was supervised by Defendants' employees or agents and plaintiff relied on the actual or apparent authority of employees, supervisors and management for both defendants.

8.

Defendants discriminated against plaintiff by engaging in and/or allowing a continuing course of conduct, including but not limited to, sexual discrimination and sexual harassment, which created a hostile work environment.

9.

Defendants' conduct was sufficiently severe and pervasive to alter the conditions of plaintiff's employment and create a hostile work environment. Defendants knew or should have known of the abusive work environment and failed to take prompt remedial action.

10.

Plaintiff complained to defendants about the sexual discrimination, sexual harassment and hostile work environment. Defendants retaliated and discriminated against plaintiff due to her complaints.

First Claim For Relief

Title VII -Discrimination

11.

Plaintiff realleges paragraphs 1 through 11.

12.

Defendants discriminated against plaintiff in the terms and conditions of her employment, including but not limited to her layoff and her termination, on the basis of her sex in violation of Title VII.

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13.

As a result of being laid off and discharged by defendants, plaintiff has incurred lost wages and benefits in an amount to be proven at trial. Reinstatement of plaintiff is not feasible and plaintiff will continue to have lost income and benefits into the future.

14.

Plaintiff is entitled to recover her costs and attorney fees pursuant to 42 USC §1988 and Title VII.

15.

As a direct and proximate result of defendants' conduct plaintiff has suffered and will continue to suffer mental stress, humiliation, inconvenience and loss of enjoyment of life all to her nonpecuniary loss in an amount to be determined at trial.

16.

Defendants' conduct was willful, malicious and/or done with reckless indifference to plaintiff's federally protected rights. Defendants should each be assessed punitive damages pursuant to 42 USC §1981(b)(1) in an amount to be determined at trial.

Second Claim For Relief

ORS 659A.030 -Discrimination

17.

Plaintiff realleges paragraphs 1 through 16.

18.

Defendants discriminated against plaintiff in the terms and conditions of her employment, including but not limited to her layoff and her termination, on the basis of her sex in violation of ORS 659A.030.

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19.

As a result of being laid off and discharged by defendants, plaintiff has incurred lost wages and benefits in an amount to be proven at trial. Reinstatement of plaintiff is not feasible and plaintiff will continue to have lost income and benefits into the future.

20.

Plaintiff is entitled to recover her costs and attorney fees pursuant to ORS 659A.885

21.

As a direct and proximate result of defendants' conduct plaintiff has suffered and will continue to suffer mental stress, humiliation, inconvenience and loss of enjoyment of life all to her nonpecuniary loss in an amount to be determined at trial.

22.

Defendants' conduct was willful, malicious and/or done with reckless indifference to plaintiff's state protected rights. Defendants should each be assessed punitive damages in an amount to be determined at trial.

Third Claim For Relief

Title VII – Hostile Work Environment

23.

Plaintiff realleges paragraphs 1 through 23.

24.

Defendants' conduct had the purpose and effect of creating an intimidating, hostile, and offensive work environment, and had the purpose and effect of unreasonably interfering with plaintiff's work performance, and otherwise adversely affected her employment opportunities.

25.

Defendants' creation of, and/or failure to prevent, the sexually hostile work environment for plaintiff constitutes unlawful sexual harassment in violation of Title VII.

Fourth Claim For Relief

ORS 659A.030 – Hostile Work Environment

26.

Plaintiff realleges paragraphs 1 through 26.

27.

Defendants' conduct had the purpose and effect of creating an intimidating, hostile, and offensive work environment, and had the purpose and effect of unreasonably interfering with plaintiff's work performance, and otherwise adversely affected her employment opportunities.

28.

Defendants' creation of, and/or failure to prevent, the sexually hostile work environment for plaintiff constitutes unlawful sexual harassment in violation of ORS 659A.030.

Fifth Claim For Relief

Title VII – Retaliation

29.

Plaintiff realleges paragraphs 1 through 29.

30.

Defendants discriminated against plaintiff in the terms and conditions of her employment in substantial motivating part due to plaintiff's good faith opposition to unlawful employment practices which violated Title VII.

31.

Defendants' decision to layoff and eventually terminate plaintiff was motivated in substantial part due to her opposition to unlawful employment practices which violated Title VII.

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Sixth Claim For Relief

ORS 659A.030 – Retaliation

32.

Plaintiff realleges paragraphs 1 through 32.

33.

Defendants discriminated against plaintiff in the terms and conditions of her employment in substantial motivating part due to plaintiff's good faith opposition to unlawful employment practices which violated ORS 659A.030.

34.

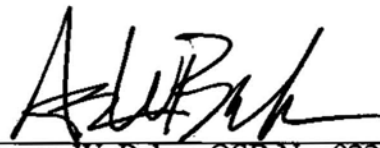
Defendants' decision to layoff and eventually terminate plaintiff was motivated in substantial part due to her opposition to unlawful employment practices which violated ORS 659A.030.

Prayer for Relief

WHEREFORE, Plaintiff prays for judgment against each defendant as follows:

1. For permanent injunctive relief enjoining defendants, their officers, employees and agents from engaging in any harassment or discrimination based on sex or for retaliating against any employee opposing unlawful employment practices;
2. Economic damages and future losses to be determined at trial;
3. Non-economic damages to be determined at trial;
4. Punitive damages in an amount to be determined at trial;
5. Reasonable costs and attorney fees;
6. For such other and further relief as the Court may deem just and equitable.

DATED this 7th day of October, 2009.


Aaron W. Baker, OSB No. 92222
Trial Attorney for Plaintiff